IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4828 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAVJIBHAI CHHOTABHAI PATEL & 4 - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner(s) : 1 - 2.SERVED BY AFFIX.(N) for Petitioner(s) : 3,NOTICE UNSERVED for Petitioner(s) : 4,UNSERVED-EXPIRED (N) for Petitioner(s) : 5,
Mr. Prachchak, AGP for Respondent(s) : 1,
MR JITENDRA MALKAN for Respondent(s) : 2,
MR TUSHAR MEHTA for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/11/2005

ORAL JUDGMENT

Though served, nobody appears on behalf of the petitioner. This is a matter of the year 1990 and therefore this Court has taken up the matter for Final hearing today.

2. In this petition under Article 226 of the Constitution of India, the petitioners have prayed for an appropriate writ, direction or order to quash and set aside the appointment of GUJCOMASOL made by the Government of Gujarat as sole distributor/marketing agent of fertilizer in the territory of Gujarat.

3. Shri Tushar Mehta, learned advocate appearing on behalf of respondent No.3, GUJCOMASOL has submitted further affidavit-in-reply today and in Para 3 it is stated as under;

> 3. “I state and submit that over the period of time, the said regulated distribution has undergone drastic changes and now the position is as under :
>
> The Central Government decides the quota of fertilizers to be distributed in each State.
>
> However, unlike the past years, the State Government is not requiring the fertilizer manufacturers like the GSFC etc. To get the fertilizers distributed only through the specified distributors like the respondent no.3. The distribution system is substantially deregulated. It is submitted that since last two seasons, no allotment that since last two reasons, no allotment is fixed so far as the respondent no.3 is concerned and the respondent No.3 has not received any order fixing the allotment. As per the prevailing circumstances, if the petitioner approach the fertilizers manufacturers like the GSFC, GNFC, IFFCO, KRIBHCO etc. It is for such manufacturers

of fertilizers to decide as to whether to distribute the fertilizers through the appex co-operative societies like the respondent no.3 or through the private traders depending upon such distribution being permissible under their respective Memorandum/Article association and/or respective bye-laws."

4. In view of the above change in circumstances and the change in the policy, nothing further is required to be done in the present Special Civil Application which requires to be disposed of. It is disposed of accordingly. Rule is discharged.

[M. R. Shah, J.]

RMR.